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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,773	03/25/2004	Steven W. Vogts	08008.00624	5912
24382	7590	03/02/2006	EXAMINER	
JOSEPH S. HEINO, ESQ. DAVIS & KUELTHAU, S.C. 111 E. KILBOURN SUITE 1400 MILWAUKEE, WI 53202-6613			PARSLEY, DAVID J	
		ART UNIT	PAPER NUMBER	3643
DATE MAILED: 03/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/808,773	VOGTS, STEVEN W.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David J. Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 January 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 January 2006 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                             |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                        | 6) <input type="checkbox"/> Other: _____                                    |

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment dated 1-3-06 and this action is final.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 9, 13, 15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by GB Patent No. 2264029 to Orme.

Referring to claim 1, Orme discloses a fishing rod handle which comprises, a handle member – at 1,2, the handle member having an internal hollow and an external surface – see for example figures 1-7, a fishing rod blank – at 3, a portion of the fishing rod blank being insertable within the handle member hollow – see for example figures 1-7, a plurality of vibration disks – at 1, each disk being attachable to that portion of the fishing rod blank – at 3, that is inserted within the hollow handle member – see for example figures 1-7, wherein the vibrations emanating from

the rod blank are transferred through the vibration disks and through the handle member to the external surface of the handle member – see for example figures 1-7.

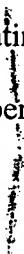
Referring to claim 2, Orme discloses the internal hollow of the handle member comprises a linear aperture defined within the handle member – see at 1-2 in figures 1-7.

Referring to claim 3, Orme discloses the linear aperture has an internal cylindrical wall – see figures 1-7, and the external surface of the handle member is parallel linear with the cylindrical wall – see at 1-2 in figures 1-7.

Referring to claims 5 and 15, Orme discloses each vibration disk – at 1, comprises a flat circular disk member having a central aperture for receiving a portion of the rod blank – at 3, therewithin – see for example figures 1-7.

Referring to claims 9 and 19, Orme discloses the rod blank – at 3, the plurality of vibration disks – at 1, and the handle member – at 1-2, is each constructed of a vibration conductive material – see for example figures 1-7.

Referring to claim 13, Orme discloses a fishing rod handle which comprises, a longitudinally extending handle member – at 1,2, the handle member having an internal hollow defined by an internal surface and an external surface – see for example figures 1-7, a longitudinally extending fishing rod blank – at 3, a portion of the fishing rod blank being insertable within the handle member hollow – see for example figures 1-7, a plurality of vibration disks – at 1, each disk being attachable to that portion of the fishing rod blank – at 3, that is inserted within the hollow handle member – see for example figures 1-7, wherein the vibrations emanating from the rod blank are transferred through the vibration disks and through the handle member to the external surface of the handle member – see for example figures 1-7.



Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Potter. Potter discloses a longitudinally extending fishing rod handle which comprises, a handle member – at 5-11, the handle member having an internal hollow defined by an internal surface and an external surface – see for example figures 1-3, a longitudinally extending fishing rod blank – at 12,15 or at 20, a portion of the fishing rod blank being insertable within the handle member hollow – see for example figures 1-3, and a plurality of vibration members – at 16,17, each vibration member being attachable to that portion of the fishing rod blank that is inserted within the hollow handle member – see for example figures 1-3, wherein the vibrations emanating from the rod blank are transferred through the vibration members and through the handle member to the external surface of the handle member – see for example figures 1-3.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-9 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 2,018,923 to Potter in view of EP Patent No. 0445086 to Venturi.

Referring to claim 1, Potter discloses a fishing rod handle which comprises, a handle member – at 5-11, the handle member having an internal hollow and an external surface – see for example figures 1-3, a fishing rod blank – at 12,15 or at 20, a portion of the fishing rod blank

being insertable within the handle member hollow – see for example figures 1-3, and a plurality of vibration elements – at 16,17, each vibration element being attachable to that portion of the fishing rod blank that is inserted within the hollow handle member – see for example figures 1-3, wherein the vibrations emanating from the rod blank are transferred through the vibration elements and through the handle member to the external surface of the handle member – see for example figures 1-3. Potter does not disclose the vibration elements are disks. Venturi does disclose the vibration elements – at 1a or 3a, are disks disposed in the fishing rod – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Potter and add the disks of Venturi, so as to allow for the movement of the fishing rod to be limited and controlled during use.

Referring to claim 2, Potter as modified by Venturi further discloses the internal hollow of the handle member comprises a linear aperture defined within the handle member – at 5-11 in figures 1-3 of Potter.

Referring to claim 3, Potter as modified by Venturi further discloses the linear aperture has an internal cylindrical wall – see at 5-11 in figures 1-3 of Potter, and the external surface of the handle member is parallel linear with the cylindrical wall – see at 5-11 in figures 1-3 of Potter.

Referring to claim 5, Potter as modified by Venturi further discloses each vibration disk – at 1a of Venturi, comprises a flat circular disk member having a central aperture for receiving a portion of the rod blank therewithin – see for example figures 1-2 of Venturi.

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Referring to claim 6, Potter as modified by Venturi further discloses each vibration disk – at 1a,3a of Venturi, further includes a plurality of prongs – at 1e or 3d, extending outwardly from the flat disk member – at 1a or 3a – see for example figures 1-2 of Venturi.

Referring to claim 7, Potter as modified by Venturi further discloses each vibration disk has a first disk face – see at 1a or 3a of Venturi, and each of the plurality of outwardly extending prongs – at 1e or 3d, is bent toward the first disk face – see for example figures 1-2 of Venturi.

Referring to claim 8, Potter as modified by Venturi further discloses the vibration disks – at 1a and 3a, that are attached to the disk blank are attached such that the prongs of each disk are bent in the same direction – see at 1e and 3d in figures 1-2.

Referring to claim 9, Potter as modified by Venturi further discloses the rod blank – at 12,15 or 20 of Potter and – see figures 1-2 of Venturi, the plurality of vibration elements – at 16,17 Potter and – at 1a or 3a of Venturi, and the handle member – at 5-7 of Potter and – see figures 1-2 of Venturi, is each constructed of a vibration conductive material.

Referring to claim 11, Potter as modified by Venturi further discloses the handle member – at 5, of Potter is constructed of a metal material – see for example page 1 column 1 lines 31-35 of Potter.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orme or Potter a modified by Venturi as applied to claim 1 above, and further in view of U.S. Patent No. 4,467,548 to Tabor. Orme and Potter as modified by Venturi both do not disclose the handle member hollow has a first open end and a second closed end, and including a nose cone, the nose cone having an axially disposed aperture for receiving a portion of the rod blank therewithin and the nose cone being insertable within the first open end of the handle member hollow. Tabor

does disclose the handle member hollow – at 2-22, has a first open end – proximate 1, and a second closed end – at 12-13, and including a nose cone – at 2, the nose cone having an axially disposed aperture for receiving a portion of the rod blank – at 1 – see figure 1, therewithin and the nose cone being insertable within the first open end of the handle member hollow – see for example figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Orme or Potter as modified by Venturi and add the handle member with nose cone of Tabor, so as to securely removably hold the rod blank to the handle member.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orme or Potter as modified by Venturi as applied to claim 9 above, and further in view of U.S. Patent No. 4,631,853 to Brackett et al. Orme and Potter as modified by Venturi both do not disclose the rod blank is constructed of a graphite material. Brackett et al. does disclose the rod blank – at 2, is constructed of a graphite material – see for example column 4 lines 19-30. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Orme or Potter as modified by Venturi and add the rod blank made of a graphite material, so as to allow for the fishing rod to be both flexible and durable for repeated use.

Claims 11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orme as applied to claims 9 or 19 above, and further in view of Potter.

Referring to claims 11 and 21, Orme does not disclose the handle is constructed of a metal material. Potter does disclose the handle – at 5, is constructed of a metal material – see for example page 1 column 1 lines 31-35. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Orme and add the handle constructed of a metal material of Potter, so as to allow for the handle to be stronger and more durable for repeated use.

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Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orme or Potter as modified by Venturi as applied to claim 9 above. Orme and Potter as modified by Venturi both do not disclose the vibration disks are made of metal. However, it would have been obvious to one of ordinary skill in the art to take the device of Orme or Potter as modified by Venturi and add the vibration disks made of metal, so as to allow for the disks to be made stronger and more durable for repeated use.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orme or Potter as applied to claim 13 above, and further in view of U.S. Patent No. 4,467,548 to Tabor. Orme and Potter both do not disclose the handle member hollow has a first open end and a second closed end, and including a nose cone, the nose cone having an axially disposed aperture for receiving a portion of the rod blank therewithin and the nose cone being insertable within the first open end of the handle member hollow. Tabor does disclose the handle member hollow – at 2-22, has a first open end – proximate 1, and a second closed end – at 12-13, and including a nose cone – at 2, the nose cone having an axially disposed aperture for receiving a portion of the rod blank – at 1 – see figure 1, therewithin and the nose cone being insertable within the first open end of the handle member hollow – see for example figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Orme or Potter and add the handle member with nose cone of Tabor, so as to securely removably hold the rod blank to the handle member.

Claims 15-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potter as applied to claim 13 above, and further in view of Venturi.

Referring to claim 15, Potter further discloses the vibration members – at 16,17, have a central aperture for receiving the rod blank therethrough – see for example at 15-17 and

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16',17',20 – see for example figures 1-3. Potter does not disclose each vibration member comprises a flat circular disk member. Venturi does disclose each vibration disk – at 1a, 3a, comprises a flat circular disk member having a central aperture for receiving a portion of the rod blank therewithin – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Potter and add the vibration members are flat disks of Venturi, so as to allow for the movement of the fishing rod to be limited and controlled during use.

Referring to claim 16, Potter as modified by Venturi further discloses each vibration disk – at 1a,3a of Venturi, further includes a plurality of prongs – at 1e or 3d, extending outwardly from the flat disk member – at 1a or 3a – see for example figures 1-2 of Venturi.

Referring to claim 17, Potter as modified by Venturi further discloses each vibration disk has a first disk face – see at 1a or 3a of Venturi, and each of the plurality of outwardly extending prongs – at 1e or 3d, is bent toward the first disk face – see for example figures 1-2 of Venturi.

Referring to claim 18, Potter as modified by Venturi further discloses the vibration disks – at 1a and 3a, that are attached to the disk blank are attached such that the prongs of each disk are bent in the same direction – see at 1e and 3d in figures 1-2.

Referring to claim 19, Potter as modified by Venturi further discloses the rod blank – at 12,15 or 20 of Potter and – see figures 1-2 of Venturi, the plurality of vibration elements – at 16,17 Potter and – at 1a or 3a of Venturi, and the handle member – at 5-7 of Potter and – see figures 1-2 of Venturi, is each constructed of a vibration conductive material.

Referring to claim 21, Potter as modified by Venturi further discloses the handle member – at 5, of Potter is constructed of a metal material – see for example page 1 column 1 lines 31-35 of Potter.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orme or Potter as modified by Venturi as applied to claim 19 above, and further in view of U.S. Patent No. 4,631,853 to Brackett et al. Orme and Potter as modified by Venturi both do not disclose the rod blank is constructed of a graphite material. Brackett et al. does disclose the rod blank – at 2, is constructed of a graphite material – see for example column 4 lines 19-30. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Orme or Potter as modified by Venturi and add the rod blank made of a graphite material, so as to allow for the fishing rod to be both flexible and durable for repeated use.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orme or Potter as modified by Venturi as applied to claim 19 above. Orme and Potter as modified by Venturi both do not disclose the vibration disks are made of metal. However, it would have been obvious to one of ordinary skill in the art to take the device of Orme or Potter as modified by Venturi and add the vibration disks made of metal, so as to allow for the disks to be made stronger and more durable for repeated use.

### *Response to Arguments*

4. Regarding claims 1-3, 5, 9, 13, 15 and 19, the British reference GB 2264029 discloses a handle with a hollow as seen at 1 and 2 in figures 1-7, where the handle has hollow portions

receiving the rod blank – 3 and hollow portions receiving the disk members at 1 and 2. Further, the British reference discloses tubular members as seen – at 1 and 2 in figures 1-2 and therefore the use of the term “tube” as used in the disclosure of the British reference is deemed proper. Further, the British reference discloses vibration disks – at 1 and 2 which allow for the fisherman to feel vibrations when a fish strikes a lure attached to the rod as seen in the abstract and page 1 lines 14-24. Further, applicant argues that the British reference does not disclose the vibration disks are inserted into the hollow of the handle. However, as seen in claim 1 the vibration disks are claimed as being attachable to the hollow portion of the handle in which the fishing rod blank is inserted. Therefore, the vibration disks being inserted into the hollow of the handle is not claimed and this argument is moot. Further as seen in figures 4-7, the disks – at 2 are disclosed in hollows being the gaps or spaces located between items – 1.

Regarding claims 1-3, 5, 9, 13, 15 and 19, the Potter reference US 2018923 discloses a hollow handle – at 5 and a plurality of vibration members – at 16 and 17 which are directly connected to the rod blank – at 15 and therefore any vibrations in the rod blank – at 15 would be transferred directly to the vibration members – at 16,17 and then to the handle – at 5 which is in direct contact with the vibration members – at 5. The transferring of the vibrations from the rod blank to the handle member are deemed intended use/functional limitations in an apparatus claim and it is deemed that the vibrations on the rod blank – at 15 are capable of being transferred to the handle – at 5 through the vibration members – at 16,17 as discussed above. Further, the Potter reference discloses that the vibration members – at 16,17 are made of rubber or any other suitable material as seen in page 1 column 2 lines 11-14 and page 1 column 2 lines 26-33. The vibration members – at 16,17 may not be made of rubber and even when made of rubber the

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vibrations are diminished by the dampening effect of the rubber but vibrations are still capable of being present in that the rubber since the vibration elements are directly connected to the rod blank – at 15 and the handle – at 5 as seen in figure 2. Further, applicant argues that the vibration members – at 16,17 of the Potter reference are not disk-shaped, however as seen above in paragraphs 2-3 of this office action the Potter reference is not being used to disclose disk-shaped vibration elements.

Regarding the 35 U.S.C. 103(a) rejections to claims 1-3, 5-9 and 11 applicant relies upon the arguments with respect to the Potter reference in view of the 35 U.S.C. 102(b) rejections as set forth above. Therefore, see the response to these arguments above in this paragraph of the office action. Further, the Venturi reference EP 0445086 is used to disclose the vibration elements are disk-shaped as seen at 3 in figure 1. The Venturi reference is not being used to disclose the emanation of the vibrations. Further, the combination of the Potter reference and the Venturi reference is deemed proper in that both of these references have similar structure of hollow fishing rod handles with fishing rod blanks and components connected to the rod blanks all placed inside the handles. Further, the references have similar function in that the rod blanks are movable in the handle as seen in figure 3 of the Potter reference and as seen in the telescoping movement in figure 1 of Venturi. Therefore given the similar constructions and functions of the Potter and Venturi reference the combination of the references is deemed proper given the motivation provided in paragraph 3 of this office action.

Regarding claim 4, applicant argues that the Tabor reference US 4467548 implies that a dampening material is used and therefore cannot allow for vibrations to emanate in the handle. However, an implication is based on opinion and is not persuasive enough to remove the

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rejection. Further, as seen above with respect to claims 1 and 13 regarding the Potter reference a dampening material is still capable of not dampening the entire vibrations and therefore vibrations are still capable of being emanated in the handle.

Regarding claim 6, the Brackett et al. reference US 4631853 discloses a hollow portion at the interior of the items – at 6 as seen in the central portions of items 6 housing the shaft – at 34. Further, the Brackett et al. reference is not used to disclose the hollow portion of the handle as seen in paragraphs 2-3 above in this office action.

Regarding claims 11-12 and 21, applicant relies upon the arguments with respect to the parent claims 9 and 19. Therefore, see the response to these arguments above in this paragraph of the office action.

Regarding claim 14, the Potter reference discloses the handle has a second closed end – see at 5,6,12 as seen in figures 1-2. The British reference discloses a closed second end of the handle as seen below the disks – at 2 as seen in figures 4-7. The Tabor reference discloses the handle has a second closed end – at 12,13 as seen in figures 1-2.

Regarding claims 15-22, applicant relies upon the arguments with respect to parent claims 13 and 19, therefore see the response to these arguments above in this paragraph of this office action.



*Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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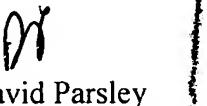
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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David Parsley  
Patent Examiner  
Art Unit 3643

  
PETER M. POON  
SUPERVISORY PATENT EXAMINER

2/22/06